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14 THE HONORABLE BENJAMIN H. SETTLE
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

GEOFF MCPHERSON and ROSEANN
MCPHERSON,

Plaintiffs,

v.

HOMEWARD RESIDENTIAL,
FIDELITY NATIONAL TITLE
INSURANCE COMPANY, SAND
CANYON CORPORATION f/k/a
OPTION ONE MORTGAGE
CORPORATION, U.S. BANK
NATIONAL ASSOCIATION, AS
TRUSTEE FOR J.P. MORGAN
MORTGAGE ACQUISITION CORP.
2005-OPT2 ASSET BACKED PASS-
THROUGH CERTIFICATES, SERIES
2005-OPT2, and AMERICAN HOME
MORTGAGE SERVICING, INC.,

Defendants.

No. 3:12-cv-05920 BHS

STIPULATION AND
ORDER TO TEMPORARILY ENJOIN
TRUSTEE'S SALE

Noted for Consideration:
December 10, 2012

I. STIPULATION

Plaintiffs and Defendants, by and through their undersigned counsel, hereby stipulate to the entry of the following order temporarily enjoining the foreclosure sale of Plaintiffs' residence currently set for December 14, 2012, pursuant to the Washington Deed of Trust Act, RCW 61.24 *et seq.*

STIPULATED ORDER ENJOINING FORECLOSURE
(No. 3:12-cv-05920 BHS) - 1

71045-0132/LEGAL25351725.1

Perkins Coie LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000

1 WHEREAS Plaintiffs are borrowers on a certain residential mortgage loan, secured by a
2 deed of trust, that is the subject of this action. Defendant Homeward Residential, Inc., f/k/a
3 American Home Mortgage Servicing, Inc. ("Homeward") is the loan servicer of Plaintiffs' loan;
4 U.S. Bank National Association, as Trustee for J.P. Morgan Mortgage Acquisition Corp. 2005-
5 OPT2 Asset Backed Pass-Through Certificates, Series 2005-OPT2 is the beneficiary; and
6 Fidelity National Title Insurance Company is the successor trustee under the subject deed of
7 trust.

8 WHEREAS a foreclosure sale of Plaintiffs' residence is currently set for December 14,
9 2012.

10 WHEREAS Plaintiffs have applied for a loan modification. Homeward has advised
11 Plaintiffs' that the loan modification application is missing required information and documents.
12 In order to allow additional time to determine whether Plaintiffs are qualified for a loan
13 modification, Plaintiffs and Defendants agree to the entry of this Order postponing the
14 foreclosure sale as follows:

15 1. Provided that Plaintiffs comply with the payment terms set forth in Paragraph 2
16 below, the foreclosure sale shall be postponed until the earlier of (a) March 9, 2013 or (b) such
17 time that Homeward determines that Plaintiffs do not qualify for a loan modification (if
18 applicable). If the foreclosure sale is set for a date before March 9, 2013, Homeward shall
19 provide Plaintiffs with at least fourteen (14) days advance notice of the sale date to allow
20 Plaintiffs an opportunity to cure the default or move the Court for an order restraining the sale.

21 2. Pursuant to RCW 61.24.130(1), as a condition of entry of this Stipulated Order
22 and its continued effect, within three (3) business days of entry of this Order, Plaintiffs shall
23 deposit in the Court's Registry the sum of one thousand two hundred and seventy-seven
24 thousand dollars (\$1,277.00), which is the monthly payment amount that would be due on the
25 obligation secured by the deed of trust if the deed of trust was not being foreclosed. Further,
26

27
28 STIPULATED ORDER ENJOINING FORECLOSURE
29 (No. 3:12-cv-05920 BHS) - 2

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36 Fax: 206.359.9000

1 Plaintiffs shall thereafter continue to make this payment on a monthly basis to the Court Registry
 2 by the fifteenth (15th) day of each month (starting January 15, 2013) and continuing until
 3 termination of this Order pursuant to paragraph one (1) above or further Order of this Court.
 4 Contemporaneous with each deposit, Plaintiffs shall provide Defendants' counsel with proof of
 5 the timely deposit of amounts required by this Order.
 6

7 3. In the event Plaintiffs fail to make the initial payment due three (3) days after
 8 entry of this Order, or fail to timely deposit in the Court Registry any of the monthly payments
 9 that are due under the preceding paragraph, this Stipulated Order shall automatically dissolve, all
 10 amounts included in the Court Registry shall be forfeited to Defendant Homeward to be applied
 11 to Plaintiffs' loan according to the terms of the promissory note, and the foreclosure sale may be
 12 scheduled in accordance with the requirements of the Washington Deed of Trust Act.
 13

14 4. Nothing in this Stipulated Order prevents Plaintiffs from moving to extend or
 15 modify the terms of this Order, including requesting a restraint of the foreclosure sale beyond the
 16 terms of Paragraph 2 above. Nor does this Stipulated Order prevent Plaintiffs or Defendants
 17 from proceeding with the litigation, including discovery and dispositive motion practice.
 18

19 Stipulated this 10th day of December, 2012.
 20

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 39 Attorneys for Defendants American Home
 40 Mortgage Servicing, Inc., now known as
 41 Homeward Residential, Inc., and U.S. Bank
 42 N.A., as Trustee for J.P. Morgan Mortgage
 43 Acquisition Corp. 2005-OPT2 Asset Backed
 44 Pass-Through Certificates, Series 2005-OPT2
 45

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2 **FIDELITY NATIONAL LAW GROUP**
3

4 s/ Daniel A. Womac

5 Daniel A. Womac (WSBA #36394)

6 **Fidelity National Law Group**

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12
13 Attorneys for Defendant Fidelity National Title
14 Insurance Company
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17 **II. ORDER**
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19 It is so Ordered.
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21 Dated this 11 day of December, 2012.



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24 UNITED STATES DISTRICT JUDGE
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STIPULATED ORDER ENJOINING FORECLOSURE
(No. 3:12-cv-05920 BHS) – 4

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